

## Social Security Administration

## §410.665

party, shall be filed in sufficient number that they may be made available to any party requesting a copy and to any other party designated by the Appeals Council.

(c) *Appearance to present oral argument.* Any party may request an appearance before the Appeals Council for the purpose of presenting oral argument. Such request shall be granted where the Appeals Council determines that a significant question of law or policy is presented or where the Appeals Council is of the opinion that such oral argument would be beneficial in rendering a proper decision in the case. Where the request for appearance is granted, the party will be notified of the time and place for the appearance at least 10 days prior to the date of the scheduled appearance.

[41 FR 53790, Dec. 9, 1976]

### §410.664 Evidence admissible on review.

(a) *Admissibility of additional evidence.* Evidence in addition to that introduced at the hearing before the presiding officer, or documents before the presiding officer where such hearing was waived (see §410.647), may not be admitted except where it appears to the Appeals Council that such evidence is relevant and material to an issue before it and thus may affect its decision.

(b) *Receipt of evidence by Presiding Officer.* Where the Appeals Council determines that additional evidence is needed for a sound decision, it will remand the case to a presiding officer for receipt of the evidence, further proceedings, and a new decision, except where the Appeals Council can obtain the evidence more expeditiously and the rights of the claimant will not be adversely affected.

(c) *Receipt of evidence by Appeals Council.* Where the Appeals Council obtains the evidence itself, before such evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, unless such notice is waived, at their last known addresses, and the parties shall be given a reasonable opportunity to comment thereon and to present evidence which is relevant and material to such issues.

(d) *Copies of evidence.* When additional evidence is presented to a presiding officer or to the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request, upon payment of the cost, or if such cost is not readily determinable, the estimated amount thereof, unless, for good cause shown, such payment is waived.

[41 FR 53790, Dec. 9, 1976]

### §410.665 Decision by Appeals Council or remanding of case.

(a) *General.* If a case is certified to the Appeals Council by an Administrative Law Judge (see §410.654), the Appeals Council shall make a decision. If the Appeals Council decides to review an Administrative Law Judge's decision as provided in §410.662, the Appeals Council may, upon such review, affirm, modify, or reverse the decision of the Administrative Law Judge, or vacate such decision and remand the case to an Administrative Law Judge either for rehearing and the issuance of a decision thereon or to take further testimony in the case and return it to the Appeals Council with a recommended decision for decision by the Appeals Council. Where a case has been remanded by a court for further consideration, the Appeals Council may proceed then to make the decision or it may in turn remand the case to an Administrative Law Judge with directions to return the case upon completion of the necessary action to the Appeals Council with a recommended decision for decision by the Appeals Council.

(b) *Case remanded to an Administrative Law Judge.* Where a case is remanded to an Administrative Law Judge, he shall initiate such additional proceedings and take such other action (under §§410.632 through 410.655) as is directed by the Appeals Council in its order of remand. The Administrative Law Judge may take any additional action not inconsistent with the order of remand. Upon completion of all action called for by the order of remand and any other action initiated by the Administrative Law Judge, the Administrative Law Judge shall promptly (1)